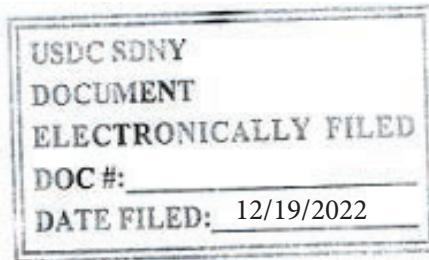


MEMO ENDORSED

# Federal Defenders OF NEW YORK, INC.



Southern District  
81 Main Street, Suite 300  
White Plains, N.Y. 10601-4150  
Tel: (914) 428-7124 Fax: (914) 948-5109

David E. Patton  
*Executive Director*  
*and Attorney-in-Chief*

*Southern District of New York*  
Jennifer L. Brown  
*Attorney-in-Charge*

Nelson S. Román  
The Hon. ~~Ronald J. Darrow~~  
United States ~~Magistrate Judge~~ District Judge  
300 Quarropas St.  
White Plains, NY 10601

## VIA EMAIL AND ECF

**Re: US v. McDuffie – 22 Cr. 331**

Román  
Dear Judge ~~Ronald J. Darrow~~

I write on behalf of my client, Benjamin McDuffie, to request a six-hour release (3 pm to 9 pm) from the Westchester County Jail to attend his grandfather's funeral on Thursday, December 6, 2022.

Mr. McDuffie's grandfather, Robert Cunningham, with whom Mr. McDuffie was exceptionally close, passed away last week. Mr. McDuffie requests the opportunity to be allowed to grieve with his family, and to be present when his grandfather is put to rest. He pled guilty on November 3, 2022 to one count of 18 U.S.C. § 924(c)(1)(A)(ii) (brandishing a firearm in furtherance of a Hobbs Act Robbery). Sentencing is scheduled for February 3, 2023.

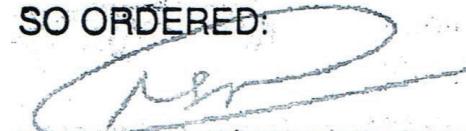
Attached is the information regarding his grandfather's service. Mr. McDuffie requests to be permitted to go to the viewing from 4 to 6 pm and then attend the service from 6 to 7 pm. Both events are being held at the Granby Funeral Home in The Bronx. He would be escorted to and from the jail by family. The requested time frame of 3 to 9 pm will give his family time to transport him to and from Westchester County Jail to The Bronx and accounts for traffic.

His wife, Nadia McDuffie, is willing to be a third-party co-signer. Alternatively, he could be released on an unsecured personal recognizance bond, to be signed by Mr. McDuffie, that permits him to attend the viewing and service.

Dated: White Plains, NY

Dec. 19, 2022

**SO ORDERED:**

  
HON. NELSON S. ROMÁN  
UNITED STATES DISTRICT JUDGE

Dec. 6, 2022

**While the Court is sympathetic to Defendant's loss, Defendant's request is DENIED *nunc pro tunc* to Dec. 6, 2022. Clerk of Court is requested to terminate the motion at ECF No. 44.**

The Bail Reform Act provides that a “judicial officer may... permit the temporary release of [a] person ... to the extent that the judicial officer determines such release to be necessary for preparation of the person’s defense or for another compelling reason.” 18 U.S.C. § 3142(i) (emphasis added). Accordingly, other judges have granted temporary release for detained individuals to attend family members’ funerals. *See, e.g., United States v. McLeod*, 18 Cr. 691 (JGK) (S.D.N.Y.) (releasing client from Essex County for 24 hours on an unsecured personal recognizance bond to attend his grandmother’s funeral); *United States v. Dunn*, 11 Cr. 638 (SAS) (S.D.N.Y) (releasing defendant on a \$30,000 personal recognizance bond to allow him to attend brother’s memorial service); *United States v. Summers*, 09 Cr. 807 (DLC) (S.D.N.Y.) (releasing defendant to attend partner’s funeral).

The government objects to this request.

Due to the time-sensitive nature of this request, we respectfully request that the Court grant release or afford us the opportunity to be heard as soon as possible. Mr. McDuffie would not need to be produced.

Sincerely,



Rachel Martin  
Assistant Federal Defender

cc: Jennifer Ong; Benjamin Klein

